

# HOUSE BILL 1076

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By: **Delegates Hettleman, Atterbeary, Dumais, Lierman, McIntosh, Moon, Rosenberg, Sanchez, Stein, Sydnor, West, and K. Young**

Introduced and read first time: February 8, 2017

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Sexual Assault Evidence Collection Kits – Analysis**

3 FOR the purpose of requiring a sexual assault evidence collection kit to be submitted to a  
4 certain laboratory for analysis except under certain circumstances; requiring a  
5 certain victim of sexual assault to be given the option to consent to a certain analysis  
6 without making a certain commitment; requiring a certain law enforcement agency  
7 to submit a certain sexual assault evidence collection kit to a certain laboratory for  
8 analysis within a certain period of time, to notify a certain victim of certain matters,  
9 to make use of certain service organizations, and to ensure certain protections for  
10 certain victims; requiring a certain laboratory to take certain actions within a certain  
11 period of time; requiring certain results of a certain analysis to be entered into the  
12 Combined DNA Index System (CODIS); requiring each State and local law  
13 enforcement agency to adopt certain policies and procedures on or before a certain  
14 date; providing for the retroactive application of this Act; and generally relating to  
15 sexual assault evidence collection kits.

16 BY repealing and reenacting, with amendments,  
17 Article – Criminal Procedure  
18 Section 11–926  
19 Annotated Code of Maryland  
20 (2008 Replacement Volume and 2016 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
22 That the Laws of Maryland read as follows:

23 **Article – Criminal Procedure**

24 11–926.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) A health care provider that performs a sexual assault evidence collection kit  
2 exam on a victim of sexual assault shall provide the victim with contact information for the  
3 investigating law enforcement agency that the victim may contact about the status and  
4 results of the kit analysis.

5 (b) An investigating law enforcement agency that receives a sexual assault  
6 evidence collection kit, within 30 days after a request by the victim from whom the evidence  
7 was collected, shall provide the victim with:

8 (1) information about the status of the kit analysis; and

9 (2) all available results of the kit analysis except results that would impede  
10 or compromise an ongoing investigation.

11 **(C) A SEXUAL ASSAULT EVIDENCE COLLECTION KIT SHALL BE SUBMITTED**  
12 **TO A FORENSIC LABORATORY FOR ANALYSIS UNLESS:**

13 **(1) THERE IS CLEAR EVIDENCE DISPROVING THE ALLEGATION OF**  
14 **SEXUAL ASSAULT;**

15 **(2) THE KIT CONTAINS AN INSUFFICIENT AMOUNT OF FORENSIC**  
16 **EVIDENCE TO ENABLE AN ANALYSIS TO BE PERFORMED;**

17 **(3) THE VICTIM FROM WHOM THE EVIDENCE WAS COLLECTED**  
18 **DECLINES TO GIVE CONSENT FOR ANALYSIS; OR**

19 **(4) (I) THE SUSPECT'S IDENTITY IS NOT DISPUTED;**

20 **(II) THE SUSPECT'S PROFILE IS CONTAINED IN THE COMBINED**  
21 **DNA INDEX SYSTEM (CODIS) MAINTAINED BY THE FEDERAL BUREAU OF**  
22 **INVESTIGATION; AND**

23 **(III) THE SUSPECT HAS BEEN CONVICTED OF THE SEXUAL**  
24 **OFFENSE THAT IS THE BASIS FOR THE SEXUAL ASSAULT EVIDENCE COLLECTION KIT**  
25 **AND HAS EXHAUSTED ALL APPEALS.**

26 **(D) A VICTIM OF SEXUAL ASSAULT WHO WISHES TO REMAIN ANONYMOUS**  
27 **SHALL BE GIVEN THE OPTION TO CONSENT TO SUBMISSION OF THE VICTIM'S SEXUAL**  
28 **ASSAULT EVIDENCE COLLECTION KIT FOR ANALYSIS WITHOUT MAKING ANY**  
29 **COMMITMENT TO TAKING FURTHER ACTION.**

30 **(E) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN**  
31 **INVESTIGATING LAW ENFORCEMENT AGENCY THAT RECEIVES A SEXUAL ASSAULT**  
32 **EVIDENCE COLLECTION KIT SHALL:**

1           **(1) SUBMIT THE KIT TO A FORENSIC LABORATORY FOR ANALYSIS**  
2 **WITHIN 30 DAYS OF RECEIPT OF THE KIT;**

3           **(2) NOTIFY THE VICTIM WHEN A KIT IS SENT FOR ANALYSIS;**

4           **(3) NOTIFY THE VICTIM OF THE RESULTS OF THE ANALYSIS;**

5           **(4) MAKE USE OF COMMUNITY-BASED SEXUAL ASSAULT VICTIM**  
6 **SERVICE ORGANIZATIONS THAT CAN PROVIDE SERVICES AND SUPPORT TO**  
7 **SURVIVORS OF SEXUAL ASSAULT; AND**

8           **(5) ENSURE PRIVACY PROTECTIONS FOR VICTIMS IN CONNECTION**  
9 **WITH NOTIFICATION PROCEDURES.**

10           **(F) A FORENSIC LABORATORY THAT RECEIVES A SEXUAL ASSAULT**  
11 **EVIDENCE COLLECTION KIT FOR ANALYSIS SHALL DETERMINE SUITABILITY AND**  
12 **COMPLETE SCREENING, TESTING, AND ANALYSIS WITHIN 150 DAYS OF RECEIPT.**

13           **(G) THE ELIGIBLE RESULTS OF AN ANALYSIS OF A SEXUAL ASSAULT**  
14 **EVIDENCE COLLECTION KIT SHALL BE ENTERED INTO CODIS.**

15           **(H) ON OR BEFORE JANUARY 1, 2018, EACH STATE AND LOCAL LAW**  
16 **ENFORCEMENT AGENCY SHALL ADOPT WRITTEN POLICIES AND PROCEDURES**  
17 **REGARDING THE HANDLING OF SEXUAL ASSAULT EVIDENCE COLLECTION KITS**  
18 **CONSISTENT WITH THE PROVISIONS OF THIS SECTION.**

19           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
20 apply retroactively and shall be applied to and interpreted to affect all sexual assault  
21 evidence collection kits in the possession of law enforcement agencies on the effective date  
22 of this Act.

23           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2017.